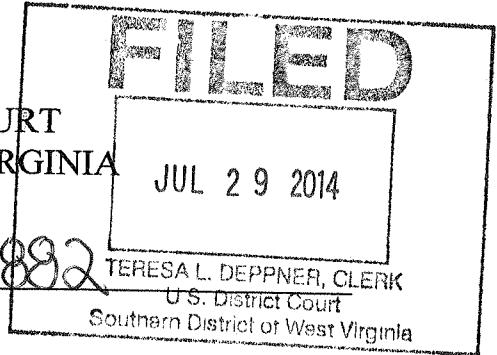


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA

Billy James Fleming



(Enter above the full name of the plaintiff or plaintiffs in this action).

(Inmate Reg. # of each Plaintiff)

VERSUS

CIVIL ACTION NO. 5:14-24130  
(Number to be assigned by Court)

JAN-CARE

(Enter above the full name of the defendant or defendants in this action)

**COMPLAINT**

**I. Previous Lawsuits**

A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise relating to your imprisonment?

Yes \_\_\_\_\_ No ✓

B. If your answer to A is yes, describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline).

1. Parties to this previous lawsuit:

Plaintiffs: \_\_\_\_\_

Defendants: 

2. Court (if federal court, name the district; if state court, name the county); 11

county);  
N/A

4. Name of judge to whom case was assigned:

Name of judge to whom case was assigned:  
N/A

5. Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?)

Is it still pending?  
N/A

6. Approximate date of filing lawsuit: 7/17/17

7. Approximate date of disposition: 1/1/14

II. Place of Present Confinement: P.C.C.

A. Is there a prisoner grievance procedure in this institution?

Yes ✓ No \_\_\_\_\_

B. Did you present the facts relating to your complaint in the state prisoner grievance procedure?

Yes \_\_\_\_\_ No ✓

C. If you answer is YES:

1. What steps did you take? N/A

2. What was the result? N/A

D. If your answer is NO, explain why not: Don't have to do with institution

III. Parties

(In item A below, place your name and inmate registration number in the first blank and place your present address in the second blank. Do the same for additional plaintiffs, if any.)

A. Name of Plaintiff: Billy James Fleming

Address: P.C.C. Po Box 159 Grafton WV 26354

B. Additional Plaintiff(s) and Address(es): \_\_\_\_\_

(In item C below, place the full name of the defendant in the first blank, his/her official position in the second blank, and his/her place of employment in the third blank. Use item D for the names, positions, and places of employment of any additional defendants.)

C. Defendant: Jan-Care

is employed as: Business

at 117 South Fayette Beckley WV 25801

D. Additional defendants: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**IV. Statement of Claim**

State here as briefly as possible the facts of your case. Describe how each defendant is involved. Include also the names of other persons involved, dates and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, set forth each claim in a separate paragraph. (Use as much space as you need. Attach extra sheets if necessary.)

See ATTACHMENT

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**IV. Statement of Claim (continued):**

Same

## V. Relief

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

See Attachment

V. Relief (continued):

SAME

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VII. Counsel

A. If someone other than a lawyer is assisting you in preparing this case, state the person's name:

---

B. Have you made any effort to contact a private lawyer to determine if he or she would represent you in this civil action?

Yes  No

If so, state the name(s) and address(es) of each lawyer contacted:

Harold B. Wolfe, III 1422 Main St Princeton, WV 24740

John R. Mitchell, Jr. 28 Ohio Ave Po Box WV 25362-6724

If not, state your reasons: 

---

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C. Have you previously had a lawyer representing you in a civil action in this court?

Yes  No

If so, state the lawyer's name and address:

N/A

Signed this 19 day of October, 2014.

Billy Fleming

**Signature of Plaintiff or Plaintiffs**

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 7/19/2014  
(Date)

Billy Fleming  
Signature of Movant/Plaintiff

Signature of Attorney  
(if any)



November 8, 2013

Billy Fleming  
105 Highland St. Apt 2  
Beckley, WV 25801

RE:           Billy Fleming  
File Number: 7037155  
Date of Loss: 11/07/2013  
Store:       1351

Dear Mr. Fleming:

Claims Management, Inc. (CMI) manages claims on behalf of Wal-Mart Stores, Inc. its subsidiaries, and their insurance company regarding customer incidents.

I am sorry to hear of your incident which occurred at Store 1351 on 11/07/2013.

Hopefully, we have talked on the telephone before you receive this letter. If we have not talked, please call me at the earliest opportunity to let me know how you are doing. If you have a "call blocking" service or similar feature on your telephone, please allow it to accept calls from my telephone number.

At CMI, we strive to resolve our cases as quickly as the circumstances allow. However, I would like to take this opportunity to inform you of the Legal Statute of Limitations in WV. It is two years from the date of incident for adults or from the date of majority (adulthood) for injured minors. The Statute of Limitations provides for the amount of time within which this matter must be resolved amicably or legal action must be initiated.

If you have any questions or concerns about this letter, feel free to contact me at the telephone number, e-mail address, or postal address at the bottom of this letter. Please provide the File Number listed above for faster service.

Wal-Mart, Neighborhood Markets, and Sam's Club value you as a customer and hope you continue to shop with them.

Sincerely,

**Katie Hawkins**  
**Case Manager**  
**Cathy.Hawkins@cmiw.com**  
**800-527-0566+58013**

---

**Claims Management, Inc.**

**P. O. Box 1288 – Bentonville, AR – 72712-1288**

**CLAIMS MANAGEMENT, INC. (DBA) CLAIMS MANAGEMENT, INC. OF ARKANSAS**

**ARKANSAS CLAIMS MANAGEMENT, INC.**

**PHONE: (800) 527-0566 EXT 58013 • FAX: 479-277-1896**

JAN-CARE

## ATTACHMENT

On the 7<sup>th</sup> or 8<sup>th</sup> day of nov. Jan-care respond to a slip and fall at Wal-mart Shopping Center. On scene the transporter ask what was the injuries my fiancee stated at that time i slipped and hit my head and back on the floor. Now medical treatment for a slip and fall protocol was for Jan-care to use a back board and neck brace when a patient fall and hit there head. Instead Jan-care transport force such patient off the floor.

I was then transported to Raleigh General Hospital I was seen by doctor Fisher at that time also showed negligent of malpractice for not giving X-Rays at that time, i was discharge. About ten days later around the 17<sup>th</sup> or 18<sup>th</sup> of nov. I was seen by another doctor whom done X-Rays on my back and neck and order for me to get medical therapy for about three weeks because I was suffering from three type of strains, in my back and neck.

I feel if Jan-care would have done protocol and followed the rules for a protocol fall and not neglected malpractice. I the patient would not suffered from such injuries, I made a complaint to the Jan-care Supervisors on or around the ~~10<sup>th</sup>~~ of nov. to a Richard and someone name

Cook Administor

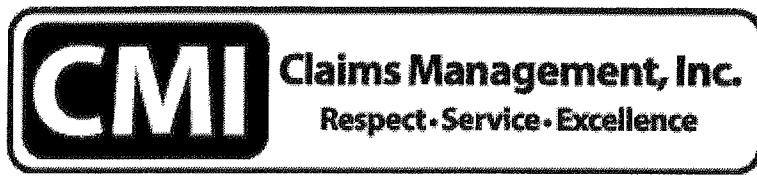
Relief

7/18/14

As of the result of Jan-care negligent misconduct malpractice and violation of protocol. When a patient slips and fall and hit there head. Now im seeking compensation for the ~~Physical~~ mental and emotional distress i endured on the 7th 8th 17th and present of nov.

I am also seeking compensation from past and present and future mental, emotional and psychological pain and suffering as the result of such abuse. Im asking that Jan-care be investigated to the full extent by the State and federal, for the misconduct and malpractice negligent.

They have place aponed me and my family and put us through, So this behavior and misconduct does not continue to happen to others and as it did to myself and family



November 20, 2013

Billy Fleming  
105 Highland St. Apt 2  
Beckley, WV 25801

RE: Billy Fleming  
File #: 7037155  
Date of Loss: 11/07/2013  
Store#: 1351

Dear Mr. Fleming:

Claims Management, Inc. (CMI) is the claims representative for Wal-Mart Stores, Inc., and for its insurance carrier regarding customer incidents.

This letter is regarding your incident, which occurred on or about 11/7/2013 in the Wal-Mart/Sam's facility #1351 located in Beckley, WV. Wal-Mart regrets any type of accident that occurs on the premises of their stores. It is Wal-Mart's goal to provide a reasonably safe place for their customers to shop.

Our investigation into this matter indicates no negligence on the part of Wal-Mart Stores, Inc. We are respectfully denying this claim.

There is not a provision within the insurance policy for medical payments. We realize some medical plans refuse payment of bills related to this type of situation. If you carry a medical plan and this occurs, we suggest you submit a copy of this letter to that carrier. It is our experience, once the carrier understands the reason for non-payment by our office; they will usually reevaluate their position.

*Please be aware that, if you believe that our position is incorrect, you have the option of contacting the West Virginia Insurance Commissioner's office:*

Office of the Insurance Commissioner  
ATTN: Consumer Service Division  
Mailing Address:  
P. O. Box 50540  
Charleston, West Virginia 25305-0540

Physical Address:  
1124 Smith Street, Rm 309  
Charleston, West Virginia 25301  
Toll Free 1 888 879 9842  
[www.wvinsurance.gov](http://www.wvinsurance.gov)

If you have questions, feel free to call 800-527-0566+58013.

Sincerely,  
  
Katie Hawkins  
Case Manager

**Claims Management, Inc.**  
P. O. Box 1288 – Bentonville, AR – 72712-1288  
CLAIMS MANAGEMENT, INC. (DBA) CLAIMS MANAGEMENT, INC. OF ARKANSAS  
ARKANSAS CLAIMS MANAGEMENT, INC.  
PHONE: (800) 527-0566 EXT 58013 • FAX: 479-277-1896

RUN DATE: 11/07/13  
 RUN TIME: 0412  
 RUN USER: FERERM

Raleigh General Hospital EDM \*\*LIVE\*\*  
 Patient Notes

PAGE 1

Patient FLEMING, BILLY JAMES  
 Chief Complaint Upper Extremity  
 ER Physician Fisher, Rodney William

Acct No. F16128637649

Occurred  
 Date 11/07/13 Time 0408 User Morris, Emily R, RN  
 IMPORTANT READ CAREFULLY:

Recorded  
 Date 11/07/13 Time 0412 User Morris, Emily R, RN

The examination and treatment received today has been rendered on an emergency basis only and is not intended to be a substitute for or an effort to provide complete medical care. Often additional treatment is necessary and should be provided by your family doctor or the referral physician recommended. Report to the physician any new or remaining problems because it is possible that all elements of the injury or illness may not be recognized and treated in a single visit. If symptoms of the illness or injury worsens, and if unable to see the follow-up physician, do not hesitate to call or return to the emergency department. Please read and follow the below instructions.

## DIAGNOSIS/INSTRUCTIONS:

## CONTUSION (BRUISE)

A contusion, or bruise, is caused by an injury that does not break the skin. Bleeding under the skin causes it to look black and blue. It may take 2 or 3 weeks for the bruising to disappear.

## INSTRUCTIONS.

You may continue your normal daily activities.  
 Rest the injured area.

Apply ice to the bruise for 15 to 20 minutes each hour for 24 to 48 hours.  
 Moist heat may be used for the next 48 hours.

## CALL IF:

1. Your pain becomes worse.
2. You develop a temperature over 101.5, that is not controlled by Tylenol or Ibuprofen.
3. The swelling increases in the area of the wound.

## MEDICATIONS:

VICOPROFEN #9 ONE BY MOUTH 3 TIMES A DAY AS NEEDED FOR PAIN

\*\*\*\*\*  
 THESE ARE YOUR FOLLOW-UP INSTRUCTIONS!

\*\*\*\*\*  
 NO DRIVING FOR 12HRS. CALL PCP-ONcall. RETURN IF SYMPTOMS WORSEN.

\*\*\*\*\*  
 AGAIN, IT IS VERY IMPORTANT TO FOLLOW THE ABOVE INSTRUCTIONS CAREFULLY. The discharge diagnosis from the Emergency Department may not be the final diagnosis. It is important to follow-up with your private physician, or with the physician you were referred to, if you continue to have problems.

"I understand the instructions above, and discussed in the Emergency Department".

RUN DATE: 11/07/13  
RUN TIME: 0412  
RUN USER: FERERM

Raleigh General Hospital EDM \*\*LIVE\*\*  
Patient Notes

PAGE 2

Patient FLEMING, BILLY JAMES  
Chief Complaint Upper Extremity  
ER Physician Fisher, Rodney William  
Acct No. F16128637649

" PLEASE DO NOT LEAVE THE EMERGENCY ROOM IF YOU HAVE ANY QUESTIONS OR CONCERNS  
ABOUT YOUR MEDICAL CONDITION, DIAGNOSIS OR TREATMENT."

Patient or Responsible Person

DR. FISHER/ TARA, RN



**Sports Medicine & Rehabilitation**  
1710 Harper Road, Beckley, West Virginia 25801  
(304) 256-4296

**Raleigh General Hospital**

Patient's Name Billy Fleming

Frequency/Duration 3x w/ 4 week

Diagnosis or Impression: Cervical Thoracic  
Lumbar Spine

Evaluation and Treatment    Mobilization  
 Evaluation    Patient Education  
 Modalities as Needed    Other \_\_\_\_\_  
 Therapeutic Exercise

Precautions/Contradictions:

Additional Comments: Sent to physical

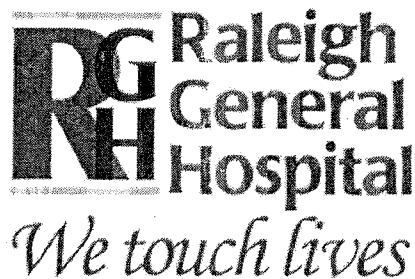
Physician's Signature Janet M. H.

11/15/13

Date

X-PT 004 (04-02)

Raleigh General  
Hospital  
1710 Harper Road  
Beckley, WV 25801  
www.raleighgeneral.com



Main Number  
(304) 256-4100  
Emergency  
Department  
(304) 256-4180

#### EXTCARE® PATIENT INFORMATION

Patient Name: BILLY FLEMING

Attending Healthcare Provider: Janet Workman PA-C/, Jose Romero MD

## Lumbosacral Strain

Lumbosacral strain is one of the most common causes of back pain. There are many causes of back pain. Most are not serious conditions.

### CAUSES

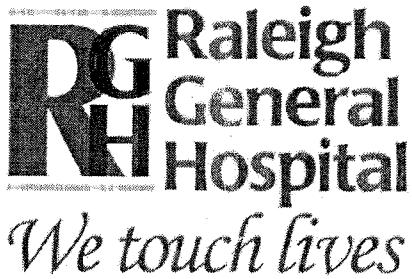
Your backbone (*spinal column*) is made up of 24 main vertebral bodies, the sacrum, and the coccyx. These are held together by muscles and tough, fibrous tissue (*ligaments*). Nerve roots pass through the openings between the vertebrae. A sudden move or injury to the back may cause injury to, or pressure on, these nerves. This may result in localized back pain or pain movement (*radiation*) into the buttocks, down the leg, and into the foot. Sharp, shooting pain from the buttock down the back of the leg (*sciatica*) is frequently associated with a ruptured (*herniated*) disk. Pain may be caused by muscle spasm alone.

Your caregiver can often find the cause of your pain by the details of your symptoms and an exam. In some cases, you may need tests (such as X-rays). Your caregiver will work with you to decide if any tests are needed based on your specific exam.

### HOME CARE INSTRUCTIONS

- Avoid an underactive lifestyle. Active exercise, as directed by your caregiver, is your greatest weapon against back pain.
- Avoid hard physical activities (tennis, racquetball, waterskiing) if you are not in proper physical condition for it. This may aggravate or create problems.
- If you have a back problem, avoid sports requiring sudden body movements. Swimming and walking are generally safer activities.
- Maintain good posture.
- Avoid becoming overweight (*obese*).
- Use bed rest for only the most extreme, sudden (*acute*) episode. Your caregiver will help you determine how much bed rest is necessary.
- For acute conditions, you may put ice on the injured area.
  - Put ice in a plastic bag.
  - Place a towel between your skin and the bag.
  - Leave the ice on for \_\_\_\_\_ minutes at a time, every 2 hours, or as needed.
- After you are improved and more active, it may help to apply heat for 30 minutes before activities.

Raleigh General  
Hospital  
1710 Harper Road  
Beckley, WV 25801  
www.raleighgeneral.com



**Main Number**  
(304) 256-4100  
**Emergency**  
**Department**  
(304) 256-4180

## EXTCARE® PATIENT INFORMATION

### Patient/Visit Information:

Patient Name: BILLY FLEMING	Discharge Date/Time: 11/15/2013 3:42:09 PM
Attending Caregiver: Janet Workman PA-C, Jose Romero MD	Diag:

### Drug Summary:

#### Take these medications:

Status	Drug Name	Form	Strength	Dose	Frequency	Amount
NEW	Robaxin	Oral tablet	500 mg	1 tab orally	4 times a day	30

Directions/Notes:by mouth as needed -

NEW	Ultram	tablet	50 mg	1 tab orally	4 times a day	20
-----	--------	--------	-------	--------------	---------------	----

Directions/Notes:by mouth -

Drug Allergies: None Entered

**Call your doctor for medical advice about side effects.**

**You may report side effects to the Food and Drug Administration (FDA) at 1-800-FDA-1088. The FDA does not provide any medical advice.**

See your caregiver if you are having pain that lasts longer than expected. Your caregiver can advise appropriate exercises or therapy if needed. With conditioning, most back problems can be avoided.

**SEEK IMMEDIATE MEDICAL CARE IF:**

- You have numbness, tingling, weakness, or problems with the use of your arms or legs.
- You experience severe back pain not relieved with medicines.
- There is a change in bowel or bladder control.
- You have increasing pain in any area of the body, including your belly (*abdomen*).
- You notice shortness of breath, dizziness, or feel faint.
- You feel sick to your stomach (*nauseous*), are throwing up (*vomiting*), or become sweaty.
- You notice discoloration of your toes or legs, or your feet get very cold.
- Your back pain is getting worse.
- You have a fever.

**MAKE SURE YOU:**

- Understand these instructions.
- Will watch your condition.
- Will get help right away if you are not doing well or get worse.

**FOLLOW-UP INSTRUCTIONS**

02 - 03 days unless better: - ( ) -

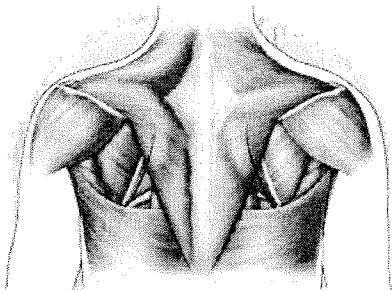
**ADDITIONAL NOTES AND INSTRUCTIONS**

FOLLOW UP WITH DR MOAWAD 304-250-0417

Document Released: 9/27/2006 Document Revised: 3/11/2013 Document Reviewed: 3/19/2010

## Thoracic Strain

Thoracic strain is an injury to the muscles of the upper back. A mild strain may take only 1 week to heal. Torn muscles or tendons may take 6 weeks to 2 months to heal.



© SHUP & ASSOCIATES, INC., 2005

**HOME CARE**

- Put ice on the injured area.
  - Put ice in a plastic bag.
  - Place a towel between your skin and the bag.
  - Leave the ice on for \_\_\_\_\_ minutes, \_\_\_\_\_ times a day, for the first 2 days.
- Only take medicine as told by your doctor.
- Go to physical therapy and perform exercises as told by your doctor.
- Use wraps and back braces as told by your doctor.
- Warm up before being active.

**GET HELP RIGHT AWAY IF:**

- There is more bruising, puffiness (*swelling*), or pain.
- Medicine does not help the pain.
- You have trouble breathing, chest pain, or a fever.
- Your problems seem to be getting worse, not better.

**MAKE SURE YOU:**



ExitCare® Patient Information - BILLY FLEMING - ID# - MR#

**Raleigh General  
Hospital**

1710 Harper Road  
Beckley, WV 25801

[www.raleighgeneral.com](http://www.raleighgeneral.com)



**Main Number**  
**(304) 256-4100**

**Emergency  
Department**  
**(304) 256-4180**

## EXTCARE® PATIENT INFORMATION DISCHARGE INSTRUCTION SUMMARY

### Patient/Visit Information:

Patient Name: BILLY FLEMING	Discharge Date/Time: 11/15/2013 3:42:09 PM
Attending Caregiver: Janet Workman PA-C, Jose Romero MD	Diag:

### Discharge Instruction Sheets Provided:

Lumbosacral Strain

Thoracic Strain, Easy-to-Read

### Patient Instructions:

Additional Notes for Lumbosacral Strain

FOLLOW UP WITH DR MOAWAD 304-250-0417

### Followup Appointments/Instructions:

Primary Follow-up Information

02 - 03 days unless better: - ( ) -

FLEMING, BILLY JAMES  
11/15/13 FPP  
M / 35  
DOB: 09/29/1978

MR# F000376458

F16128664076



Raleigh General Hospital

From: Billy James Fleming # 34882  
P.C.C Po Box 159  
Crosson wv 26354

CORRESPONDENCE FROM  
PRUNTYTOWN CORRECTIONAL  
CENTER

TO Cathy Gotsos, Clerk  
Kanawha County Circuit Court  
111 Court Street 25301

